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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

IN RE VERIFONE HOLDINGS, INC.  
SECURITIES LITIGATION,

No. C 07-06140 MHP  
Honorable Marilyn Hall Patel  
Courtroom 15

**DECLARATION OF PATRICK V. DAHLSTROM IN SUPPORT OF  
THE MEMORANDUM OF POINTS AND AUTHORITIES IN FURTHER  
SUPPORT OF CLAL FINANCE BATUCHA INVESTMENT MANAGEMENT,  
LTD.'S AND DIRECT INVESTMENT HOUSE (PROVIDENCE FUNDS) LTD.'S  
MOTION TO APPOINT LEAD PLAINTIFF AND APPROVE LEAD COUNSEL**

DECLARATION OF PATRICK V. DAHLSTROM IN FURTHER SUPPORT OF THE MOTION TO APPOINT  
CLAL FINANCE BATUCHA INVESTMENT MANAGEMENT, LTD., AND DIRECT INVESTMENT HOUSE  
(PROVIDENCE FUNDS), LTD., AS LEAD PLAINTIFF

1 I, Patrick V. Dahlstrom, hereby declare as follows:

2 1. I am a member the firm of Pomerantz Haudek Block Grossman & Gross LLP,  
3 counsel on behalf of CLAL Batucha Investment Management, Ltd and Direct Investment House  
4 (Providence Funds), Ltd. I make this Declaration in further support of the motion by CLAL  
5 Batucha Investment Management, Ltd., and Direct Investment House (Providence Funds), Ltd.  
6 for appointment as lead plaintiff and for approval of their selection of Pomerantz Haudek Block  
7 Grossman & Gross LLP as Lead Counsel and Cotchett, Pitre, Simon & McCarthy as Local  
8 Counsel for the Class.

9 2. Attached hereto as Exhibit A is a true and correct copy of the Order Appointing  
10 Lead Plaintiff and Approving Lead Plaintiff's Choice of Lead Counsel entered on the docket on  
11 November 17, 2000 in *In re Pacific Gateway, Inc., Securities Litigation*, No. C 00-1211 PJH.

12 I declare under the penalty of perjury that the foregoing is true and correct. Executed on  
13 February 19, 2008, at Chicago, Illinois.

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15 s/Patrick V. Dahlstrom  
16 Patrick V. Dahlstrom  
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27 DECLARATION OF PATRICK V. DAHLSTROM IN SUPPORT OF THE MOTION TO APPOINT CLAL  
28 FINANCE BATUCHA INVESTMENT MANAGEMENT, LTD., AND DIRECT INVESTMENT HOUSE  
(PROVIDENCE FUNDS), LTD., AS LEAD PLAINTIFF

# EXHIBIT A

**FILED**

NOV 17 2000

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RICHARD W. HARRIS  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re PACIFIC GATEWAY EXCHANGE,  
INC., SECURITIES LITIGATION

No. C-00-1211 PJH

This Document Relates To:  
ALL ACTIONS.

**ORDER APPOINTING LEAD  
PLAINTIFF AND APPROVING  
LEAD PLAINTIFF'S CHOICE  
OF LEAD COUNSEL**

This action consolidates 19 complaints alleging violations of the federal securities laws. Plaintiffs are purchasers of stock of defendant Pacific Gateway Exchange during the period May 13, 1999, through March 31, 2000. Now before the court is the motion of plaintiff Kinetics Asset Management ("Kinetics"), and the competing motion of plaintiffs Joseph W. Sowell, Jr. and Robert F. Sowell ("the Sowells"), for appointment as lead plaintiff in the above-entitled proposed class action (Docket Nos. 9 and 13). The court heard argument on the motions on September 13, 2000, and requested supplemental briefing on certain issues raised during the hearing. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby orders as follows.

The Securities Exchange Act, as amended by the Private Securities Litigation Reform Act of 1995 ("PSLRA"), requires prompt publication of notice advising class members of their right to move within 60 days of publication to be appointed lead plaintiff. See 15 U.S.C. § 78u-4(a)(3)(A)(i). This notice is to be published by the first plaintiff to file

1 an action in the district court, and the publication is to be made "in a widely circulated  
2 national business-oriented publication or wire service." Id.

3 On April 7, 2000, plaintiff in the first-filed action herein, Winnick v. Pacific Gateway  
4 Exchange, et al., Case No. C-00-1211 PJH, published a notice of pendency of action in  
5 Business Wire. That notice advised class members of the existence of the lawsuit and  
6 described the claims asserted. Sixty days later, on June 7, 2000, three applications  
7 seeking appointment as lead plaintiff were filed with the court. At the time that Kinetics  
8 filed its application, it had not yet filed a complaint. Prior to the September 13, 2000,  
9 hearing, one of the applications was withdrawn, leaving the two now under consideration.

10 The PSLRA provides that "as soon as practicable" after a motion to consolidate has  
11 been decided, the district court shall appoint a lead plaintiff "that the court determines to  
12 be most capable of adequately representing the interests of the class members." 15  
13 U.S.C. § 78u-4(3)(B)(i) and (ii). In making this determination, the court is to apply a  
14 rebuttable presumption that the most adequate plaintiff is the applicant that "in the  
15 determination of the court" has the largest financial interest in the relief sought, and  
16 otherwise meets the requirements of Federal Rule of Civil Procedure 23. 15 U.S.C.  
17 § 78u4(a)(3)(B)(iii)(I). This presumption can be rebutted by a showing that the  
18 presumptive candidate will not fairly and adequately represent the class, or is subject to  
19 unique defenses. See 15 U.S.C. § 78-u4(a)(3)(B)(iii)(II).

20 In this case, Kinetics and the Sowell's argue, in their respective competing motions,  
21 that they have the largest financial interest in the relief sought, and therefore, are entitled  
22 to the statutory presumption that they are the "most adequate" to serve as lead plaintiff.  
23 Kinetics claims a loss of approximately \$623,000 from purchases made on May 13, 1999.  
24 Kinetics also urges the court to consider extending the class period back to April 13, 1999,  
25 and claims further losses in excess of \$10 million for the period from April 13 to May 13,  
26 1999.

27 The Sowell's claim a loss of approximately \$103,000 during the period from May 13,  
28 1999, to March 31, 2000. The Sowell's argue that Kinetics does not have the greatest

1 financial interest because Kinetics purchased no stock after the issuance of the alleged  
2 false and misleading statement that initiated the class period – the May 13, 1999, public  
3 announcement of "record" revenues for the first quarter of 1999. The Sowell contend that  
4 because the announcement was released after the close of stock trading on May 13, it  
5 would have been impossible for any Pacific Gateway stock to have been purchased on  
6 that date in reliance on the public announcement, and that the first opportunity for any  
7 purchases based on the announcement of "record" 1Q99 revenues was May 14, 1999.  
8 The Sowell also argue, on the same basis, that Kinetics is neither sufficiently typical nor  
9 adequate, as required by Rule 23.

10 Kinetics responds that its purchases on May 13, 1999, should be considered in  
11 determining which party incurred the largest financial loss during the class period because  
12 notice for these lawsuits establishes the class period as starting on May 13, not on May  
13 14, and because 18 of the 19 complaints filed allege the start of the class period as May  
14 13.<sup>1</sup> Kinetics contends that the fact that the market had closed before the issuance of the  
15 alleged false and misleading statement is irrelevant, and that all that is required is that the  
16 stock be artificially inflated on the date alleged.

17 The basis of the complaint filed by the plaintiff in Winnick is that Pacific Gateway  
18 issued false and misleading statements regarding its earnings, commencing with the  
19 statement issued after the market closed on May 13, 1999, and continuing until March 31,  
20 2000, when the company allegedly publicly revealed that its reported income for the first,  
21 second, and third quarters of 1999 had been overstated. As the court understands the  
22 allegations, the relief sought by the class is the recovery of losses incurred as a result of  
23 the issuance of the allegedly false reports (commencing on May 13, 1999). The court  
24 finds that Kinetics has not established that it has the largest financial interest in the relief

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26 <sup>1</sup> Kinetics' own complaint, Kinetics Asset Management, Inc. v. Pacific Gateway  
27 Exchange, Inc., et al., C-00-2165 PJH, filed June 16, 2000, is the exception. Kinetics claims  
28 that the class period began on April 13, 1999, based on allegations that a Paine Webber  
analyst issued favorable reports on April 13 and May 5, following conversations with three of  
the individual defendants.

1 sought by the class because it has not shown that it purchased stock following the  
2 issuance of these allegedly false and misleading statements.<sup>2</sup>

3 The court finds further that the Sowells have the largest financial interest in the  
4 relief sought by the class, and that they satisfy the requirements of Rule 23. Accordingly,  
5 the court finds that the motion of plaintiffs Joseph W. Sowell, Jr., and Robert F. Sowell for  
6 appointment as lead plaintiffs should be GRANTED, and that their selection of the law firm  
7 of Berman, DeValerio, Pease & Tabacco, P.C., should be approved as lead counsel for the  
8 class.

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10 IT IS SO ORDERED.

11 Dated: November 17, 2000

  
12 PHYLIS J. HAMILTON  
13 United States District Judge  
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25 Copies mailed to counsel of record  
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27 <sup>2</sup> The Sowells contend that Kinetics' last purchase of Pacific Gateway stock was on  
28 May 13, 1999, and Kinetics' argument in support of its reply to the Sowells' opposition to  
Kinetics' motion concurs with the Sowells' assertion. See Reply, filed herein on October 11,  
2000, at 1.